



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/06897/2018

THE IMMIGRATION ACTS

Heard at Manchester
On 24th July 2019

Decision & Reasons Promulgated
On 6th August 2019

Before

Upper Tribunal Judge Chalkley

Between

MARIAT SSEBIGOMBA NAKISEKKA
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs C Johnrose of Broudie Jackson Canter

For the Respondent: Mr Tan, a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a national of Uganda who was born on 20th July 1976. She made application to the respondent for recognition as a refugee but the respondent refused to grant recognition on 21st May 2018. The appellant appealed and her First-tier Tribunal appeal was heard by First-tier Tribunal Judge A J Parker in Manchester on 6th March, 2017.

2. The appellant was contacted by the Immigration Appeal Tribunal on 4th June, 2018 and invited to reply to directions. She requested that the appeal proceed to an oral hearing. She indicated that she did not intend to give evidence and did not intend to call witnesses. She said that she did require a Luganda interpreter.
3. The appellant was then sent notice of prehearing review by first class prepaid post on 4th June 2018 advising her of a prehearing review on 18th June 2018. That prehearing review was adjourned because the Home Office had failed to provide the files to the Immigration Appeal Tribunal and so a fresh hearing was arranged for 2nd July 2018. Notice was sent to the appellant on 19th June 2018.
4. That was also adjourned because the files had not been received from the Home Office and so the prehearing review was fixed for Monday 24th November 2019. The appellant was advised by a notice sent to her by prepaid post on 11th July 2018. She completed and returned a reply to the Notice of Hearing in which she indicated that she did not have representatives. She did not need any more time to prepare for a full hearing and that she did intend to give evidence herself. She indicated that she required a Luganda interpreter.
5. Following that, on 26th September 2018 the appellant was notified by first class post of a hearing date on 8th October. It appears that this hearing did not take place. On 9th October 2018 the Tribunal again gave notice of a prehearing review and the appellant again responded by completing the questionnaire sent with the Notice of Hearing again indicating that she had no legal representatives, she did not need any more time to prepare for the hearing and required a Luganda interpreter. It appears that this hearing may also have been adjourned because there is another reply on the file dated 8th November 2018. The appellant gave the same answers as previously.
6. The matter was then set down for hearing on 6th March 2018 and the appellant was sent notice of the hearing by first class post on 23rd February. On 25th February 2019 the appellant wrote to the Tribunal requesting an adjournment of her case because she could not find a solicitor or representative to take her on. They were telling her apparently that she should come back at the end of March. The adjournment was refused, because the appellant had already had over nine months in the United Kingdom to secure representation for the hearing.
7. The appeal came for hearing before Tribunal Judge Parker on 6th March, and it appears that at the hearing the appellant claimed that she was not well enough to proceed with the hearing. She produced a letter from a Dr Burkey dated 5th March 2019 describing her symptoms of worsening fatigue, tiredness and headache. She suffers from type 2 diabetes and has difficulty controlling her diabetes. The doctor's letter did not say that she was unfit to attend a hearing and indeed the appellant had appeared before the judge. The judge records that the hearing took place at 10:10 and finished at 11:10 and that during the hearing she answered questions and gave a considerable amount of detailed information regarding her claim in an intelligent manner. The judge noted that she clearly understood the questions and at no time

did he feel that the hearing was conducted unfairly. The judge found the appellant not to be credible and dismissed her appeal.

8. She made application for permission to appeal in which she said

“My Article 3 right has been breached as I am not given the opportunity to adequately engage the use of a legal representative to address all the refusal reasons. The respondent has stated which are all true to the best of my knowledge when I lodged and claimed asylum.

I seek permission for my appeal to be heard at the Upper Tribunal by which time I would have had a legal representative to address my case. Refusal would be a breach of my Article 3 under the Refugee Convention that will allow for my removal from the UK to face torture and other dehumanising treatment in Uganda.

I urge the UK government and Secretary of State to carefully consider my case and allow me to stay in the UK and be safe for the rest of my life. I am not a threat to the public and have not violated Section 117B and 117C of the Nationality, Immigration and Asylum Act 2002”.

9. Mrs Johnrose confirmed that there was no additional medical evidence today confirming the state of her health as at the date of the hearing before the judge.
10. Mrs Johnrose sought to persuade me that the judge had erred by proceeding with the hearing. Matters were slightly confused because the judge made credibility findings on the basis that the appellant claimed that threats were received from a telephone call and the judge found this not to be credible because the appellant had actually applied for a visa prior to this telephone call. Mrs Johnrose pointed out that there were in fact two applications for a visa, but on careful examination of visa applications and the record of interview conducted with the appellant, it is clear that in fact the telephone call that the judge was referring to **had** been received after the date of her first application at the end of July. Her first application having been made at the beginning of July.
11. Mr Tan sought to persuade me to uphold the determination. The Tribunal is used to dealing with unrepresented appellants. This appellant had been in the United Kingdom for some nine months and had been given every opportunity to seek the representative if that is what she wanted. She had indicated to the Tribunal on no less than three occasions that she was not represented.
12. I agree with the Home Office Presenting Officer. This appellant has had ample opportunity to engage the services of lawyers if she had wanted to do so. Nevertheless, the appellant had earlier indicated that she was not using lawyers. It is perfectly clear from the determination that the appellant was not in any way inhibited from explaining to the judge why she needed international protection. The judge reminded himself of the 2014 Procedure Rules and in particular Rule 4 and noted that the overriding objective was to deal with cases fairly and justly. I am

satisfied that he did just that. There is no error of law in his determination and I uphold it. The appellant's appeal is dismissed.

Richard Chalkley

Upper Tribunal Judge Chalkley

I have dismissed the appeal and therefore there can be no fee award.

Richard Chalkley

Upper Tribunal Judge Chalkley

Date 30 July 2019